

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:18-cv-00194-MR-DSC**

MARK KEVIN MILLER,

Plaintiff,

vs.

ZAXBY'S,

Defendant.

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ORDER

THIS MATTER is before the Court on the Defendant Zaxby's Franchising LLC's Motion to Dismiss Plaintiff's Complaint [Doc. 7] and the Magistrate Judge's Memorandum and Recommendation [Doc. 14] regarding the disposition of that motion.

Pursuant to 28 U.S.C. § 636(b) and the standing Orders of Designation of this Court, the Honorable David S. Cayer, United States Magistrate Judge, was designated to consider the Defendant's motion and to submit a recommendation for its disposition.

On January 16, 2019, the Magistrate Judge filed a Memorandum and Recommendation in this case containing conclusions of law in support of a recommendation regarding the Defendant's motion. [Doc. 14]. The parties

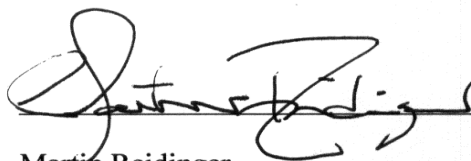
were advised that any objections to the Magistrate Judge's Memorandum and Recommendation were to be filed in writing within fourteen (14) days of service. The period within which to file objections has now expired, and no written objections to the Memorandum and Recommendation have been filed.

After a careful review of the Magistrate Judge's Recommendation, the Court finds that the proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby accepts the Magistrate Judge's recommendation that the Defendant Zaxby's Franchising LLC's Motion to Dismiss should be granted, and that the Plaintiff's claims against this Defendant should be dismissed. The Plaintiff's claims against the Defendant Garbar, LLC shall proceed.

IT IS, THEREFORE, ORDERED that the Memorandum and Recommendation [Doc. 14] is **ACCEPTED**; the Defendant Zaxby's Franchising LLC's Motion to Dismiss Plaintiff's Complaint [Doc. 7] is **GRANTED**; and the Plaintiff's claims against Zaxby's Franchising LLC are hereby **DISMISSED**. The Plaintiff's claims will go forward against the Defendant Garbar, LLC.

Signed: February 5, 2019

IT IS SO ORDERED.


Martin Reidinger
United States District Judge

